



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,070	11/21/2001	Gert Rusch	7781.0040-00	9748

7590 03/24/2004

Finnegan, Henderson, Farabow,  
Garrett & Dunner, L.L.P.  
1300 I Street, N.W.  
Washington, DC 20005-3315

EXAMINER

LE, UYEN T

ART UNIT	PAPER NUMBER
----------	--------------

2171

DATE MAILED: 03/24/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/989,070

Applicant(s)

RUSCH ET AL.

Examiner

Uyen T. Le

Art Unit

2171

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7 is/are allowed.
- 6) ☒ Claim(s) 8-11 and 13-18 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Response to Amendment***

1. Applicant's remark that the claim for foreign priority was included in the transmittal letter filed with the application on November 21, 2001 is acknowledged.
2. Applicant's amendments to the drawings to correct discrepancies between the figures and specification are acknowledged.
3. Applicant's amendments to claims 14, 15 to overcome the rejection under 35 U.S.C. 101 are acknowledged. Therefore, rejection to claims 14, 15 under 35 U.S.C. 101 is withdrawn.
4. Applicant's use of double brackets is ambiguous considering that applicant also indicate deletion by crossing over part of the claims. What is applicant's intention by using double brackets?
5. Applicant's arguments regarding claims 8-11, 13-18 have been fully considered but they are not persuasive. Applicant argues that Day III does not disclose all the claimed subject matter. In response, the claimed first and second application systems merely read on the primary system and backup systems of Day. The claimed database system reads on the combination of the primary storage and backup storages in Day III. Since the primary storage is distinct from the backup storage, the memory of the

Art Unit: 2171

database system of Day III is clearly divided into first and second memory portions both being disjunctive as claimed. Furthermore, the first memory portion is clearly assigned to the primary system and the second memory portion is clearly assigned to the backup system since the backup system has to replace the primary system when the primary system fails.

6. Applicant presents no further argument. Therefore rejection to all claims using the reference of record is maintained.

***Claim Objections***

7. Claims 1-18 are objected to because of the ambiguous notation of double brackets.

8. Claim 14 is further objected to because of the confusing language in the preamble. Applicant is required to correct the preamble to clearly indicate that it is a method claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Art Unit: 2171

9. Claims 8-11, 13-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Day III et al (US 6,502,108) of record.

Regarding claim 8, the broadly claimed first and second application systems connected to a database system merely read on the primary system and the backup system of Day (see column 6, lines 11-28). Each application system clearly runs for a plurality of users. Furthermore, the first and second memory portions are clearly disjunctive since the backup memory is distinct from the primary memory and the primary system and backup system clearly access the first and second memory portions respectively as claimed.

Regarding claim 9, the claimed tables broadly interpreted merely read on the data stored in the databases of Day.

Regarding claim 10, the claimed unique profile assigned to each memory portion is met by the fact that one memory portion is assigned to primary memory and one portion is assigned to backup memory in the method of Day.

Regarding claim 11, clearly each profile is assigned to one of the application system because the primary system deals with the primary memory and backup system deals with the backup memory in the method of Day.

Regarding claim 13, Day discloses read and write (see column 8, lines 1-63).

Claim 14 essentially recites the limitations of claim 8 with the added "profile". The primary and backup systems in Day III clearly have "assigned profiles" since they are different.

Regarding claim 15, clearly the profiles are assigned to disjunctive memory locations of primary and backup memory database system.

Claims 16-18 essentially recite the same limitations of claim 8, thus are rejected for the reasons stated in claim 8 above.

***Allowable Subject Matter***

10. Claims 1-7 are allowed.

11. Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

12. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not disclose or make obvious a computer system and method for a database system to support multiple application systems including a first application system, a second application systems and a database system having at least a first and second disjunctive memory portions, the database system storing at least a first assignment of a first predetermined profile to the first memory portion, storing at least a second assignment of a second predetermine profile to the second memory portion, the first and second profiles being unique and referring to the first and second applications respectively, the first application system and the second application system access the first memory portion and the second memory portion through the corresponding profiles.

***Conclusion***

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uyen T. Le whose telephone number is 703-305-4134. The examiner can normally be reached on M-F 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 703-308-1436. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2171

15. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

20 March 2004



**UYEN LE**  
**PRIMARY EXAMINER**